

Reissue Application No.: 10/001,416  
Docket No.: R0045RE  
Amendment (RCE Submission) Dated November 23, 2005  
Responsive to the final Office Action dated August 23, 2005

REMARKS

Prior to the present Office Action, claims 1-28 were pending. Claims 1-11, 14, and 16-28 have been canceled, and claims 29-53 are added. Therefore, claims 12, 13, 15, and 29-53 (total of 28 claims) are presently pending.

- 5 Please note the Request for Continued Examination (RCE) transmittal attached. This amendment constitutes the required "submission."

Status of the Claims Pursuant to 37 C.F.R. §1.173(c)

- Original claims 1-11 and 14 have been canceled.
- 10 Original claims 12 and 13 are pending and stand allowed.
- Claim 15 that was added in the reissue is pending and stands allowed.
- Claims 16-28 that were added in the reissue have been canceled.
- Claims 29-53 have been added in this amendment and are pending.

15 Support in Disclosure for New Claims Pursuant to 37 C.F.R. §1.173(c)

New claims 29-31, 36, 39-40, and 47-48 are supported by the patent specification at, for example, column 1, lines 17-24, column 4, lines 48-58, and in the figures.

New claims 32, 38, 46, and 49 are supported by the patent specification at, for example, column 1, lines 51-56, and in the figures.

- 20 New claim 33 is supported by the patent specification at, for example, column 4, lines 48-58, and in the figures.

New claims 34-45, 41-42, and 52-53 are supported by the patent specification at, for example, column 3, lines 10-22, and in the figures.

- 25 New claims 37 and 45 are supported by the patent specification at, for example, column 1, lines 17-24 and 64-67, column 2, lines 40-51, column 3, lines 45-50, column 4, lines 2-6, and in the figures.

New claims 43 and 50 are supported by the patent specification at, for example, column 2, lines 4-7 and 55-58, and in the figures.

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New claims 44 and 51 are supported by the patent specification at, for example, column 3, lines 45-53, and in the figures.

#### Discussion of Technical Rejections

5           Claims 11 and 16 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. These claims have been canceled, and the phrases that the Examiner found confusing omitted from any new claims.

#### Discussion of Prior Art Rejections

10           Claims 1, 2, and 5-7 stand rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Bonutti '975 (USPN 5,331,975).

          Claims 3-4, 8, and 10 stand rejected under 35 U.S.C. §103(a) as being obvious over Bonutti '975.

15           Claims 9, 11, 14, 17-18, and 22-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Bonutti '971 (USPN 5,197,971).

          Claims 19-21 and 28 stand rejected under 35 U.S.C. §103(a) as being obvious over Bonutti '975.

          Claims 16 stands rejected under 35 U.S.C. §103(a) as being obvious over Bonutti '975.

20           Claims 16 stands rejected under 35 U.S.C. §103(a) as being obvious over Green (USPN 5,928,137).

          Although Applicants do not concede the merits of the Examiner's application of Bonutti '975 or Bonutti '971, the rejected claims have been canceled to facilitate prosecution of the new claims.

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#### Allowed claims

Applicants gratefully acknowledge the indication that claims 12, 13 and 15 are allowed.

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New claims

New claims 29-36 are each ultimately dependent on one of the allowed claims, 12, 13, or 15, and are therefore believed allowable as well. Support for these claims is referenced above.

New independent claim 37 provides a method of endoscopic surgery that is not believed to be disclosed or suggested by any of the cited references.

New independent claim 45 provides a system for endoscopic surgery that also is not believed to be disclosed or suggested by any of the cited references.

Dependent claims 38-44 and 46-53 provide even further aspect of the invention that are not disclosed by the references.

Again, support for these new claims in the U.S. Patent No. 5,984,937 is provided above, and no new matter is added.

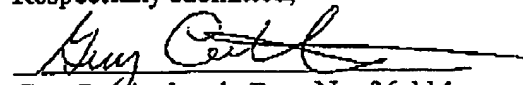
Conclusion

There are no extra claim or extension of time fees due. There were 28 total claims with 8 independent prior to the amendment, and 28 total with 5 independent remain.

Accordingly, claims 12, 13, 15, and 29-53 are believed allowable, and such action is earnestly solicited. If there is any further hindrance to allowance of the claims, the Examiner is encouraged to contact the undersigned by telephone.

Respectfully submitted,

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